

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN SENATE JUNE 26, 2012

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY MAY 10, 2012

AMENDED IN ASSEMBLY MAY 1, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1990

Introduced by Assembly Member Fong

February 23, 2012

An act to ~~add Section 399.23 to amend and renumber Section 387.6 of, and to add Sections 399.23 and 399.33 to, the Public Utilities Code, relating to electricity.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1990, as amended, Fong. Renewable energy resources: ~~small-scale renewable generation program.~~ *renewable feed-in tariff set aside for most impacted and disadvantaged communities.*

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined, while local publicly owned electric utilities, as defined, are under the direction of their governing board. Existing law requires every electrical corporation to file with the commission a standard tariff for electricity generated by an electric generation facility, as defined, that qualifies for the tariff, is owned and operated by a retail customer of the electrical corporation, and is located within the service

territory of, and developed to sell electricity to, the electrical corporation. Existing law requires that, in order to qualify for the tariff, the electric generation facility: (1) have an effective capacity of not more than 3 megawatts, subject to the authority of the PUC to reduce this megawatt limitation, (2) be interconnected and operate in parallel with the electric transmission and distribution grid, (3) be strategically located and interconnected to the electric transmission system in a manner that optimizes the deliverability of electricity generated at the facility to load centers, and (4) meet the definition of an eligible renewable energy resource under the California Renewables Portfolio Standard Program. Existing decisions of the PUC implementing these requirements refer to these tariff requirements as a renewable feed-in tariff. Existing law requires a local publicly owned electric utility that sells electricity at retail to 75,000 or more customers to adopt and implement a tariff for electricity purchased from an electric generation facility meeting certain size, deliverability, and interconnection requirements and to consider certain factors. *Under existing law, the obligation of an electrical corporation or local publicly owned electric utility to make a renewable feed-in tariff available to additional electric generation facilities terminates once the generating capacity of the electric generation facilities receiving service pursuant to the utility's renewable feed-in tariff reaching its proportionate share of a statewide cap of 750 megawatts of cumulative rated generating capacity served pursuant to renewable feed-in tariffs.*

This bill would require the commission, by August 1, 2014, to add an additional 125 megawatts of cumulative rated generation capacity, split proportionately between the state's electrical corporations, to the proportion of the statewide cap of 750 megawatts that is applicable to electric generation facilities that are eligible for service pursuant to renewable feed-in tariffs. The bill would require a local publicly owned electric utility that sells electricity at retail to 75,000 or more customers, by August 1, 2014, to add an additional 65 megawatts of cumulative rated generation capacity, split proportionately between those utilities, to the proportion of the statewide cap of 750 megawatts that is applicable to electric generation facilities that are eligible for service pursuant to renewable feed-in tariffs. The bill would limit eligibility for the additional generation capacity to electric generation facilities with a rated capacity under 500 kilowatts that are located in the state's most impacted and disadvantaged communities, as defined.

~~This bill would establish the small-scale renewable generation program with the goal of installing 375 megawatts of electrical generating capacity from small-scale renewable generation facilities, as defined, in the state's most impacted and disadvantaged communities, as defined. The bill would require the PUC, in consultation with electrical corporations and interested stakeholders, to develop program elements for the program that are applicable to electrical corporations and that encourage the hiring of employees from the state's most impacted and disadvantaged communities. The bill would require each electrical corporation to file with the PUC a standard tariff for electricity purchased pursuant to a clean energy contract, as defined, with a small-scale renewable generation facility owner or operator. The bill would require the PUC to establish a schedule of standard tariff rates for electricity that electrical corporations are required to purchase through clean energy contracts with a small-scale renewable generation facility owner or operator. The bill requires each local publicly owned electric utility that sells electricity at retail to establish a schedule of standard tariff rates for electricity purchased through clean energy contracts from small-scale renewable generation facilities pursuant to a small-scale generation program for the utility. The bill would require the PUC to allocate procurement targets for each electrical corporation, and require the governing board of a local publicly owned electric utility to allocate procurement targets for the utility, in proportion to each utility's percentage share of the state's total peak demand measured in megawatts for the calendar year ending December 31, 2012. The bill would authorize the commission to adjust the procurement target for electrical corporations to account for demographic distribution of populations meeting the screening criteria for most impacted and disadvantaged communities.~~

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by ~~creating a new~~ *expanding the application of* a crime. Because the bill would impose various duties upon local publicly owned electric utilities, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to support
2 small-scale local clean energy in communities throughout the state
3 in order to increase green jobs and businesses that benefit the
4 communities where electrical utility customers live, especially in
5 the most impacted and disadvantaged communities with high
6 unemployment that bear a disproportionate burden from air
7 pollution, disease, and other impacts from the generation of
8 electricity from the burning of fossil fuels.

9 SEC. 2. *Section 387.6 of the Public Utilities Code is amended*
10 *and renumbered to read:*

11 ~~387.6.~~

12 399.32. (a) It is the policy of the state and the intent of the
13 Legislature to encourage electrical generation from eligible
14 renewable energy resources.

15 (b) As used in this section, “electric generation facility” means
16 an electric generation facility located within the service territory
17 of, and developed to sell electricity to, a local publicly owned
18 electric utility, and that meets all of the following criteria:

19 (1) Has an effective capacity of not more than three megawatts.

20 (2) Is interconnected and operates in parallel with the electrical
21 transmission and distribution grid.

22 (3) Is strategically located and interconnected to the electrical
23 transmission and distribution grid in a manner that optimizes the
24 deliverability of electricity generated at the facility to load centers.

25 (4) Is an eligible renewable energy resource pursuant to ~~Article~~
26 ~~16 (commencing with Section 399.11)~~ *this article.*

27 (c) A local publicly owned electric utility that sells electricity
28 at retail to 75,000 or more customers shall adopt a standard tariff
29 for electricity purchased from an electric generation facility.

(d) The governing board of the local publicly owned electric utility shall ensure that the tariff adopted pursuant to subdivision (c) reflects the value of every kilowatthour of electricity generated on a time-of-delivery basis. The governing board may adjust this value based on the other attributes of renewable generation. The governing board shall ensure, with respect to rates and charges, that ratepayers that do not receive service pursuant to the tariff are indifferent to whether a ratepayer with an electric generation facility receives service pursuant to the tariff.

(e) A local publicly owned electric utility that sells electricity at retail to 75,000 or more customers shall make the tariff available to the owner or operator of an electric generation facility within the service territory of the utility, upon request, on a first-come-first-served basis, until the utility meets its proportionate share of a statewide cap of 750 megawatts cumulative rated generation capacity served under this section and Section 399.20. The proportionate share shall be calculated based on the ratio of the utility's peak demand compared to the total statewide peak demand.

(f) The local publicly owned electric utility may make the terms of the tariff available to owners and operators of an electric generation facility in the form of a standard contract.

(g) Every kilowatthour of electricity purchased from an electric generation facility shall count toward meeting the local publicly owned electric utility's renewables portfolio standard annual procurement targets for purposes of Section ~~387~~ 399.30.

(h) (1) A local publicly owned electric utility may establish performance standards for any electric generation facility that has a capacity greater than one megawatt to ensure that those facilities are constructed, operated, and maintained to generate the expected annual net production of electricity and do not impact system reliability.

(2) A local publicly owned electric utility may reduce the three megawatt capacity limitation of paragraph (1) of subdivision (b) if the utility finds that a reduced capacity limitation is necessary.

(i) Within 10 days of receipt of a request for a tariff pursuant to this section from an owner or operator of an electric generation facility, the local publicly owned electric utility that receives the request shall post a copy of the request on its Internet Web site. The information posted on the Internet Web site shall include the

1 name of the city in which the facility is located, but information
2 that is proprietary and confidential, including, but not limited to,
3 address information beyond the name of the city in which the
4 facility is located, shall be redacted.

5 (j) A local publicly owned electric utility may deny a tariff
6 request pursuant to this section if the local publicly owned electric
7 utility makes any of the following findings:

8 (1) The electric generation facility does not meet the
9 requirements of this section.

10 (2) The transmission or distribution grid that would serve as the
11 point of interconnection is inadequate.

12 (3) The electric generation facility does not meet all applicable
13 state and local laws and building standards, and utility
14 interconnection requirements.

15 (4) The aggregate of all electric generating facilities on a
16 distribution circuit would adversely impact utility operation and
17 load restoration efforts of the distribution system.

18 (k) Upon receiving a notice of denial from a local publicly
19 owned electric utility, the owner or operator of the electric
20 generation facility denied a tariff pursuant to this section shall have
21 the right to appeal that decision to the governing board of the local
22 publicly owned electric utility.

23 (l) In order to ensure the safety and reliability of electric
24 generation facilities, the owner of an electric generation facility
25 receiving a tariff pursuant to this section shall provide an inspection
26 and maintenance report to the local publicly owned electric utility
27 at least once every other year. The inspection and maintenance
28 report shall be prepared at the owner's or operator's expense by a
29 ~~California-licensed~~ *California-licensed* contractor who is not the
30 owner or operator of the electric generation facility. A ~~California~~
31 ~~licensed~~ *California-licensed* electrician shall perform the inspection
32 of the electrical portion of the generation facility.

33 (m) The contract between the electric generation facility
34 receiving the tariff and the local publicly owned electric utility
35 shall contain provisions that ensure that construction of the electric
36 generating facility complies with all applicable state and local laws
37 and building standards, and utility interconnection requirements.

38 (n) (1) All construction and installation of facilities of the local
39 publicly owned electric utility, including at the point of the output

meter or at the transmission or distribution grid, shall only be performed by that local publicly owned electric utility.

(2) All interconnection facilities installed on the local publicly owned electric utility's side of the transfer point for electricity between the local publicly owned electric utility and the electrical conductors of the electric generation facility shall be owned, operated, and maintained only by the local publicly owned electric utility. The ownership, installation, operation, reading, and testing of revenue metering equipment for electric generating facilities shall ~~only~~ be performed *only* by the local publicly owned electric utility.

SEC. 3. Section 399.23 is added to the Public Utilities Code, to read:

399.23. (a) For purposes of this section, "most impacted and disadvantaged communities" means census tracts that are identified as being within the top 20 percent of results from the regional cumulative impact screening methodology using the environmental justice screening method metrics developed by Professors James L. Sadd, Manuel Pastor, Rachel Morello-Frosch, Justin Scoggins, and Bill Jesdale (Vol. 8, *International Journal of Environmental Research and Public Health* (May 2011), *Playing It Safe: Assessing Cumulative Impact and Social Vulnerability through an Environmental Justice Screening Method in the South Coast Air Basin, California*, pages 1441 to 1459, inclusive), or a regional screening method that uses the best available data to consider the following categories of vulnerability:

(1) Health risk and exposure from environmental hazards.

(2) Socioeconomic vulnerability.

(3) Climate vulnerability.

(4) Proximity of sensitive land uses.

(b) By not later than August 1, 2014, the commission shall add an additional 125 megawatts of cumulative rated generation capacity, split proportionately between the state's electrical corporations, to the proportion of the statewide cap of 750 megawatts that is applicable to electric generation facilities that are eligible for the tariffs required by Section 399.20. Eligibility for the additional 125 megawatts of cumulative rated generation capacity shall be limited to electric generation facilities with a rated capacity under 500 kilowatts that are located in the state's most impacted and disadvantaged communities.

1 SEC. 4. Section 399.33 is added to the Public Utilities Code,
2 to read:

3 399.33. (a) For purposes of this section, “most impacted and
4 disadvantaged communities” means census tracts that are
5 identified as being within the top 20 percent of results from the
6 regional cumulative impact screening methodology using the
7 environmental justice screening method metrics developed by
8 Professors James L. Sadd, Manuel Pastor, Rachel Morello-Frosch,
9 Justin Scoggins, and Bill Jesdale (Vol. 8, *International Journal of*
10 *Environmental Research and Public Health* (May 2011), *Playing*
11 *It Safe: Assessing Cumulative Impact and Social Vulnerability*
12 *through an Environmental Justice Screening Method in the South*
13 *Coast Air Basin, California*, pages 1441 to 1459, inclusive), or a
14 regional screening method that uses the best available data to
15 consider the following categories of vulnerability:

16 (1) Health risk and exposure from environmental hazards.

17 (2) Socioeconomic vulnerability.

18 (3) Climate vulnerability.

19 (4) Proximity of sensitive land uses.

20 (b) By not later than August 1, 2014, a local publicly owned
21 electric utility that sells electricity at retail to 75,000 or more
22 customers shall add an additional 65 megawatts of cumulative
23 rated generation capacity, split proportionately between those
24 utilities, to the proportion of the statewide cap of 750 megawatts
25 that is applicable to electric generation facilities that are eligible
26 for the tariffs required by Section 399.32. Eligibility for the
27 additional 65 megawatts of cumulative rated generation capacity
28 shall be limited to electric generation facilities with a rated
29 capacity under 500 kilowatts that are located in the state’s most
30 impacted and disadvantaged communities.

31 SEC. 5. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 a local agency or school district has the authority to levy service
34 charges, fees, or assessments sufficient to pay for the program or
35 level of service mandated by this act or because costs that may be
36 incurred by a local agency or school district will be incurred
37 because this act creates a new crime or infraction, eliminates a
38 crime or infraction, or changes the penalty for a crime or
39 infraction, within the meaning of Section 17556 of the Government

1 *Code, or changes the definition of a crime within the meaning of*
2 *Section 6 of Article XIII B of the California Constitution.*

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate, June 26, 2012. (JR11)**

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